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RELATIONS

ACT

STATE OF ILLINOIS

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**PUBLIC ACT 83-1014
AS AMENDED
HOUSE BILL 1530**

115 ILCS 5/1 et seq.

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AN ACT to establish the right of educational employees to organize and bargain collectively, to define and resolve unfair practice disputes and to establish the Illinois Educational Labor Relations Board to administer the Act.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

SECTION 1

Policy. It is the public policy of this State and the purpose of this Act to promote orderly and constructive relationships between all educational employees and their employers. Unresolved disputes between the educational employees and their employers are injurious to the public, and the General Assembly is therefore aware that adequate means must be established for minimizing them and providing for their resolution. It is the purpose of this Act to regulate labor relations between educational employers and educational employees, including the designation of educational employee representatives, negotiation of wages, hours and other conditions of employment and resolution of disputes arising under collective bargaining agreements. The General Assembly recognizes that substantial differences exist between educational employees and other public employees as a result of the uniqueness of the educational work calendar and educational work duties and the traditional and historical patterns of collective bargaining between educational employers and educational employees and that such differences demand statutory regulation of collective bargaining between educational employers and educational employees in a manner that recognizes these differences.

Recognizing that harmonious relationships are required between educational employees and their employers, the General Assembly has determined that the overall policy may best be accomplished by (a) granting to educational employees the right to organize and choose freely their representatives; (b) requiring educational employers to negotiate and bargain with employee organizations representing educational employees and to enter into written agreements evidencing the result of such bargaining; and (c) establishing procedures to provide for the protection of the rights of the educational employee, the educational employer and the public.

(Source: P.A. 83-1014.)

SECTION 2

Definitions. As used in this Act: (a) "Educational employer" or "employer" means the governing body of a public school district, combination of public school districts, including the governing body of joint agreements of any type formed by 2 or more school districts, public community college district or State college or university, and any State agency whose major function is providing educational services. "Educational employer" or "employer" does not include a Financial Oversight Panel created pursuant to Section 1A-8 of the School Code due to a district violating a financial plan but does include a School Finance Authority created under Article 1E or 1F of the School Code.

(b) "Educational employee" or "employee" means any individual, excluding supervisors, managerial, confidential, short term employees, student, and part-time academic employees of community colleges employed full or part time by an educational employer, but shall not include elected officials and appointees of the Governor with the advice and consent of the Senate, firefighters as defined by subsection (g-1) of Section 3 of the Illinois Public Labor Relations Act, and peace officers employed by a State university. For the purposes of this Act, part-time academic employees of community colleges shall be defined as those employees who provide less than 3 credit hours of instruction per

academic semester. In this subsection (b), the term "student" includes graduate students who are research assistants primarily performing duties that involve research or graduate assistants primarily performing duties that are pre-professional, but excludes graduate students who are teaching assistants primarily performing duties that involve the delivery and support of instruction and all other graduate assistants.

(c) "Employee organization" or "labor organization" means an organization of any kind in which membership includes educational employees, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, employee-employer disputes, wages, rates of pay, hours of employment, or conditions of work, but shall not include any organization which practices discrimination in membership because of race, color, creed, age, gender, national origin or political affiliation.

(d) "Exclusive representative" means the labor organization which has been designated by the Illinois Educational Labor Relations Board as the representative of the majority of educational employees in an appropriate unit, or recognized by an educational employer prior to January 1, 1984 as the exclusive representative of the employees in an appropriate unit or, after January 1, 1984, recognized by an employer upon evidence that the employee organization has been designated as the exclusive representative by a majority of the employees in an appropriate unit.

(e) "Board" means the Illinois Educational Labor Relations Board.

(f) "Regional Superintendent" means the regional superintendent of schools provided for in Articles 3 and 3A of The School Code.

(g) "Supervisor" means any individual having authority in the interests of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, reward or discipline other employees within the appropriate bargaining unit and adjust their grievances, or to effectively recommend such action if the exercise of such authority

is not of a merely routine or clerical nature but requires the use of independent judgment. The term "supervisor" includes only those individuals who devote a preponderance of their employment time to such exercising authority.

(h) "Unfair labor practice" or "unfair practice" means any practice prohibited by Section 14 of this Act.

(i) "Person" includes an individual, educational employee, educational employer, legal representative, or employee organization.

(j) "Wages" means salaries or other forms of compensation for services rendered.

(k) "Professional employee" means, in the case of a public community college, State college or university, State agency whose major function is providing educational services, the Illinois School for the Deaf, and the Illinois School for the Visually Impaired, (1) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or (2) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (1) of this subsection, and (ii) is performing related work under the supervision of a professional person to qualify himself or herself to become a professional as defined in paragraph (l).

(l) "Professional employee" means, in the case of any public school district, or combination of school districts pursuant to joint agreement, any employee who has a certificate issued under Article 21 or Section 34-83 of the School Code, as now or hereafter amended.

(m) "Unit" or "bargaining unit" means any group of employees for which an exclusive representative is selected.

(n) "Confidential employee" means an employee, who (i) in the regular course of his or her duties, assists and acts in a confidential capacity to persons who formulate, determine and effectuate management policies with regard to labor relations or who (ii) in the regular course of his or her duties has access to information relating to the effectuation or review of the employer's collective bargaining policies.

(o) "Managerial employee" means an individual who is engaged predominantly in executive and management functions and is charged with the responsibility of directing the effectuation of such management policies and practices.

(p) "Craft employee" means a skilled journeyman, craft person, and his or her apprentice or helper.

(q) "Short-term employee" is an employee who is employed for less than 2 consecutive calendar quarters during a calendar year and who does not have a reasonable expectation that he or she will be rehired by the same employer for the same service in a subsequent calendar year. Nothing in this subsection shall affect the employee status of individuals who were covered by a collective bargaining agreement on the effective date of this amendatory Act of 1991.

(Source: P.A. 92-547, eff. 6-13-02; 92-748, eff. 1-1-03; revised 8-26-02; 93-501, eff. 8-11-03; 93-314, eff. 1-1-04; 93-1044, eff. 10-14-04.)

SECTION 3

Employee rights. (a) It shall be lawful for educational employees to organize, form, join, or assist in employee organizations or engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection or bargain collectively through representatives of their own free choice and, except as provided in Section 11, such employees shall also have the right to refrain from any or all such activities.

(b) Representatives selected by educational employees in a unit appropriate for collective bargaining purposes shall be the exclusive representative of all the employees in such unit to bargain on wages, hours, terms and conditions of employment. However, any individual employee or a group of employees may at any time present grievances to their employer and have them adjusted without the intervention of the bargaining representative as long as the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect, provided that the bargaining representative has been given an opportunity to be present at such adjustment.

(Source: P.A. 83-1014.)

SECTION 4

Employer rights. Employers shall not be required to bargain over matters of inherent managerial policy, which shall include such areas of discretion or policy as the functions of the employer, standards of services, its overall budget, the organizational structure and selection of new employees and direction of employees. Employers, however, shall be required to bargain collectively with regard to policy matters directly affecting wages, hours and terms and conditions of employment as well as the impact thereon upon request by employee representatives. To preserve the rights of employers and exclusive representatives which have established collective bargaining relationships or negotiated collective bargaining agreements prior to the effective date of this Act,

employers shall be required to bargain collectively with regard to any matter concerning wages, hours or conditions of employment about which they have bargained for and agreed to in a collective bargaining agreement prior to the effective date of this Act.

(Source: P.A. 83-1014.)

SECTION 4.5

Subjects of collective bargaining. (a) Notwithstanding the existence of any other provision in this Act or other law, collective bargaining between an educational employer whose territorial boundaries are coterminous with those of a city having a population in excess of 500,000 and an exclusive representative of its employees may include any of the following subjects:

- (1) (Blank).
- (2) Decisions to contract with a third party for one or more services otherwise performed by employees in a bargaining unit and the procedures for obtaining such contract or the identity of the third party.
- (3) Decisions to layoff or reduce in force employees.
- (4) Decisions to determine class size, class staffing and assignment, class schedules, academic calendar, hours and places of instruction, or pupil assessment policies.
- (5) Decisions concerning use and staffing of experimental or pilot programs and decisions concerning use of technology to deliver educational programs and services and staffing to provide the technology.

(b) The subject or matters described in subsection (a) are permissive subjects of bargaining between an educational employer and an exclusive representative of its employees and, for the purpose of this Act, are within the sole discretion of the educational employer to decide to bargain, provided that the educational employer is required to bargain over the impact of a decision concerning such subject or matter on the bargaining unit upon request by the exclusive representative. During this bargaining, the

educational employer shall not be precluded from implementing its decision. If, after a reasonable period of bargaining, a dispute or impasse exists between the educational employer and the exclusive representative, the dispute or impasse shall be resolved exclusively as set forth in subsection (b) of Section 12 of this Act in lieu of a strike under Section 13 of this Act.

(c) A provision in a collective bargaining agreement that was rendered null and void because it involved a prohibited subject of collective bargaining under this subsection (c) as this subsection (c) existed before the effective date of this amendatory Act of the 93rd General Assembly remains null and void and shall not otherwise be reinstated in any successor agreement unless the educational employer and exclusive representative otherwise agree to include an agreement reached on a subject or matter described in subsection (a) of this Section as subsection (a) existed before this amendatory Act of the 93rd General Assembly.

(Source: P.A. 93-3, eff. 4-16-03.)

SECTION 5

Illinois Educational Labor Relations Board.

(a) There is hereby created the Illinois Educational Labor Relations Board.

(a-5) Until July 1, 2003 or when all of the new members to be initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later, the Illinois Educational Labor Relations Board shall consist of 7 members, no more than 4 of whom may be of the same political party, who are residents of Illinois appointed by the Governor with the advice and consent of the Senate.

The term of each appointed member of the Board who is in office on June 30, 2003 shall terminate at the close of business on that date or when all of the new members to be initially appointed under this

amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later.

(b) Beginning on July 1, 2003 or when all of the new members to be initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later, the Illinois Educational Labor Relations Board shall consist of 5 members appointed by the Governor with the advice and consent of the Senate. No more than 3 members may be of the same political party.

The Governor shall appoint to the Board only persons who are residents of Illinois and have had a minimum of 5 years of experience directly related to labor and employment relations in representing educational employers or educational employees in collective bargaining matters. One appointed member shall be designated at the time of his or her appointment to serve as chairman.

Of the initial members appointed pursuant to this amendatory Act of the 93rd General Assembly, 2 shall be designated at the time of appointment to serve a term of 6 years, 2 shall be designated at the time of appointment to serve a term of 4 years, and the other shall be designated at the time of his or her appointment to serve a term of 4 years, with each to serve until his or her successor is appointed and qualified.

Each subsequent member shall be appointed in like manner for a term of 6 years and until his or her successor is appointed and qualified. Each member of the Board is eligible for reappointment. Vacancies shall be filled in the same manner as original appointments for the balance of the unexpired term.

(c) The chairman shall be paid \$50,000 per year, or an amount set by the Compensation Review Board, whichever is greater. Other members of the Board shall each be paid \$45,000 per year, or an amount set by the Compensation Review Board, whichever is greater. They shall be entitled to reimbursement for necessary

traveling and other official expenditures necessitated by their official duties.

Each member shall devote his entire time to the duties of the office, and shall hold no other office or position of profit, nor engage in any other business, employment or vocation.

(d) Three members of the Board constitute a quorum and a vacancy on the Board does not impair the right of the remaining members to exercise all of the powers of the Board.

(e) Any member of the Board may be removed by the Governor, upon notice, for neglect of duty or malfeasance in office, but for no other cause.

(f) The Board may appoint or employ an executive director, attorneys, hearing officers, and such other employees as it deems necessary to perform its functions. The Board shall prescribe the duties and qualifications of such persons appointed and, subject to the annual appropriation, fix their compensation and provide for reimbursement of actual and necessary expenses incurred in the performance of their duties.

(g) The Board may promulgate rules and regulations which allow parties in proceedings before the Board to be represented by counsel or any other person knowledgeable in the matters under consideration.

(h) To accomplish the objectives and to carry out the duties prescribed by this Act, the Board may subpoena witnesses, subpoena the production of books, papers, records and documents which may be needed as evidence on any matter under inquiry and may administer oaths and affirmations.

In cases of neglect or refusal to obey a subpoena issued to any person, the circuit court in the county in which the investigation or the public hearing is taking place, upon application by the Board, may issue an order requiring such person to appear before the Board

or any member or agent of the Board to produce evidence or give testimony. A failure to obey such order may be punished by the court as in civil contempt.

Any subpoena, notice of hearing, or other process or notice of the Board issued under the provisions of this Act may be served personally, by registered mail or by leaving a copy at the principal office of the respondent required to be served. A return, made and verified by the individual making such service and setting forth the manner of such service, is proof of service. A post office receipt, when registered mail is used, is proof of service. All process of any court to which application may be made under the provisions of this Act may be served in the county where the persons required to be served reside or may be found.

(i) The Board shall adopt, promulgate, amend, or rescind rules and regulations in accordance with the Illinois Administrative Procedure Act as it deems necessary and feasible to carry out this Act.

(j) The Board at the end of every State fiscal year shall make a report in writing to the Governor and the General Assembly, stating in detail the work it has done in hearing and deciding cases and otherwise.

(Source: P.A. 93-509, eff. 8-11-03.)

SECTION 6

Illinois Educational Labor Mediation Roster. The Board shall establish an Illinois Educational Labor Mediation Roster, the services of which are available to the educational employer and to labor organizations for purposes of arbitration of grievances and mediation or arbitration of contract disputes. The members of the roster shall be qualified impartial individuals who are not employees of the Board.

(Source: P.A. 83-1014.)

SECTION 7

Recognition of exclusive bargaining representatives - unit determination. The Board is empowered to administer the recognition of bargaining representatives of employees of public school districts, including employees of districts which have entered into joint agreements, or employees of public community college districts, or any State college or university, and any State agency whose major function is providing educational services, making certain that each bargaining unit contains employees with an identifiable community of interest and that no unit includes both professional employees and nonprofessional employees unless a majority of employees in each group vote for inclusion in the unit.

(a) In determining the appropriateness of a unit, the Board shall decide in each case, in order to ensure employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purpose of collective bargaining, based upon but not limited to such factors as historical pattern of recognition, community of interest, including employee skills and functions, degree of functional integration, interchangeability and contact among employees, common supervision, wages, hours and other working conditions of the employees involved, and the desires of the employees. Nothing in this Act, except as herein provided, shall interfere with or negate the current representation rights or patterns and practices of employee organizations which have historically represented employees for the purposes of collective bargaining, including but not limited to the negotiations of wages, hours and working conditions, resolutions of employees' grievances, or resolution of jurisdictional disputes, or the establishment and maintenance of prevailing wage rates, unless a majority of the employees so represented expresses a contrary desire under the procedures set forth in this Act. This Section, however, does not prohibit multi-unit bargaining. Notwithstanding the above factors, where the majority of public employees of a craft so decide, the

Board shall designate such craft as a unit appropriate for the purposes of collective bargaining.

The sole appropriate bargaining unit for tenured and tenure-track academic faculty at each campus of the University of Illinois shall be a unit that is comprised of non-supervisory academic faculty employed more than half-time and that includes all tenured and tenure-track faculty of that University campus employed by the board of trustees in all of the campus's undergraduate, graduate, and professional schools and degree and non-degree programs (with the exception of the college of medicine, the college of pharmacy, the college of dentistry, the college of law, and the college of veterinary medicine, each of which shall have its own separate unit), regardless of current or historical representation rights or patterns or the application of any other factors. Any decision, rule, or regulation promulgated by the Board to the contrary shall be null and void.

(b) An educational employer shall voluntarily recognize a labor organization for collective bargaining purposes if that organization appears to represent a majority of employees in the unit. The employer shall post notice of its intent to so recognize for a period of at least 20 school days on bulletin boards or other places used or reserved for employee notices. Thereafter, the employer, if satisfied as to the majority status of the employee organization, shall send written notification of such recognition to the Board for certification. Any dispute regarding the majority status of a labor organization shall be resolved by the Board which shall make the determination of majority status.

Within the 20 day notice period, however, any other interested employee organization may petition the Board to seek recognition as the exclusive representative of the unit in the manner specified by rules and regulations prescribed by the Board, if such interested employee organization has been designated by at least 15% of the employees in an appropriate bargaining unit which includes all or some of the employees in the unit intended to be recognized by the employer. In such event, the Board shall proceed with the petition in the same manner as provided in paragraph (c) of this Section.

(c) A labor organization may also gain recognition as the exclusive representative by an election of the employees in the unit. Petitions requesting an election may be filed with the Board:

(1) by an employee or group of employees or any labor organizations acting on their behalf alleging and presenting evidence that 30% or more of the employees in a bargaining unit wish to be represented for collective bargaining or that the labor organization which has been acting as the exclusive bargaining representative is no longer representative of a majority of the employees in the unit; or

(2) by an employer alleging that one or more labor organizations have presented a claim to be recognized as an exclusive bargaining representative of a majority of the employees in an appropriate unit and that it doubts the majority status of any of the organizations or that it doubts the majority status of an exclusive bargaining representative.

The Board shall investigate the petition and if it has reasonable cause to suspect that a question of representation exists, it shall give notice and conduct a hearing. If it finds upon the record of the hearing that a question of representation exists, it shall direct an election, which shall be held no later than 90 days after the date the petition was filed. Nothing prohibits the waiving of hearings by the parties and the conduct of consent elections.

(c-5) The Board shall designate an exclusive representative for purposes of collective bargaining when the representative demonstrates a showing of majority interest by employees in the unit. If the parties to a dispute are without agreement on the means to ascertain the choice, if any, of employee organization as their representative, the Board shall ascertain the employees' choice of employee organization, on the basis of dues deduction authorization and other evidence, or, if necessary, by conducting an election. If either party provides to the Board, before the designation of a representative, clear and convincing evidence that the dues deduction authorizations, and other evidence upon which the Board

would otherwise rely to ascertain the employees' choice of representative, are fraudulent or were obtained through coercion, the Board shall promptly thereafter conduct an election. The Board shall also investigate and consider a party's allegations that the dues deduction authorizations and other evidence submitted in support of a designation of representative without an election were subsequently changed, altered, withdrawn, or withheld as a result of employer fraud, coercion, or any other unfair labor practice by the employer. If the Board determines that a labor organization would have had a majority interest but for an employer's fraud, coercion, or unfair labor practice, it shall designate the labor organization as an exclusive representative without conducting an election.

(d) An order of the Board dismissing a representation petition, determining and certifying that a labor organization has been fairly and freely chosen by a majority of employees in an appropriate bargaining unit, determining and certifying that a labor organization has not been fairly and freely chosen by a majority of employees in the bargaining unit or certifying a labor organization as the exclusive representative of employees in an appropriate bargaining unit because of a determination by the Board that the labor organization is the historical bargaining representative of employees in the bargaining unit, is a final order. Any person aggrieved by any such order issued on or after the effective date of this amendatory Act of 1987 may apply for and obtain judicial review in accordance with provisions of the Administrative Review Law, as now or hereafter amended, except that such review shall be afforded directly in the Appellate Court of a judicial district in which the Board maintains an office. Any direct appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision.

No election may be conducted in any bargaining unit during the term of a collective bargaining agreement covering such unit or subdivision thereof, except the Board may direct an election after the filing of a petition between January 15 and March 1 of the final year of a collective bargaining agreement. Nothing in this Section

prohibits the negotiation of a collective bargaining agreement covering a period not exceeding 3 years. A collective bargaining agreement of less than 3 years may be extended up to 3 years by the parties if the extension is agreed to in writing before the filing of a petition under this Section. In such case, the final year of the extension is the final year of the collective bargaining agreement. No election may be conducted in a bargaining unit, or subdivision thereof, in which a valid election has been held within the preceding 12 month period.

(Source: P.A. 88-1; 89-4, eff. 7-1-95 (eff. date changed from 1-1-96 by P.A. 89-24); 93-444, eff. 8-5-03; 93-445, eff. 1-1-04.)

SECTION 8

Election - certification. Elections shall be by secret ballot, and conducted in accordance with rules and regulations established by the Illinois Educational Labor Relations Board. An incumbent exclusive bargaining representative shall automatically be placed on any ballot with the petitioner's labor organization. An intervening labor organization may be placed on the ballot when supported by 15% or more of the employees in the bargaining unit. The Board shall give at least 30 days notice of the time and place of the election to the parties and, upon request, shall provide the parties with a list of names and addresses of persons eligible to vote in the election at least 15 days before the election. The ballot must include, as one of the alternatives, the choice of "no representative". No mail ballots are permitted except where a specific individual would otherwise be unable to cast a ballot.

The labor organization receiving a majority of the ballots cast shall be certified by the Board as the exclusive bargaining representative. If the choice of "no representative" receives a majority, the employer shall not recognize any exclusive bargaining representative for at least 12 months. If none of the choices on the ballot receives a majority, a run-off shall be conducted between the 2 choices receiving the largest number of valid votes cast in the election. The Board shall certify the results of the election within 6

working days after the final tally of votes unless a charge is filed by a party alleging that improper conduct occurred which affected the outcome of the election. The Board shall promptly investigate the allegations, and if it finds probable cause that improper conduct occurred and could have affected the outcome of the election, it shall set a hearing on the matter on a date falling within 2 weeks of when it received the charge. If it determines, after hearing, that the outcome of the election was affected by improper conduct, it shall order a new election and shall order corrective action which it considers necessary to insure the fairness of the new election. If it determines upon investigation or after hearing that the alleged improper conduct did not take place or that it did not affect the results of the election, it shall immediately certify the election results.

Any labor organization that is the exclusive bargaining representative in an appropriate unit on the effective date of this Act shall continue as such until a new one is selected under this Act.

(Source: P.A. 92-206, eff. 1-1-02.)

SECTION 9

Board Rules. The Board shall promulgate rules and regulations governing the appropriateness of bargaining units, representation elections, employee petitions for recognition and procedures for voluntary recognition of employee organizations by employers.

(Source: P.A. 83-1014.)

SECTION 10

Duty to bargain. (a) An educational employer and the exclusive representative have the authority and the duty to bargain collectively as set forth in this Section. Collective bargaining is the performance of the mutual obligations of the educational employer and the representative of the educational employees to meet at

reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment, and to execute a written contract incorporating any agreement reached by such obligation, provided such obligation does not compel either party to agree to a proposal or require the making of a concession.

(b) The parties to the collective bargaining process shall not effect or implement a provision in a collective bargaining agreement if the implementation of that provision would be in violation of, or inconsistent with, or in conflict with any statute or statutes enacted by the General Assembly of Illinois. The parties to the collective bargaining process may effect or implement a provision in a collective bargaining agreement if the implementation of that provision has the effect of supplementing any provision in any statute or statutes enacted by the General Assembly of Illinois pertaining to wages, hours or other conditions of employment; provided however, no provision in a collective bargaining agreement may be effected or implemented if such provision has the effect of negating, abrogating, replacing, reducing, diminishing, or limiting in any way any employee rights, guarantees or privileges pertaining to wages, hours or other conditions of employment provided in such statutes. Any provision in a collective bargaining agreement which has the effect of negating, abrogating, replacing, reducing, diminishing or limiting in any way any employee rights, guarantees or privileges provided in an Illinois statute or statutes shall be void and unenforceable, but shall not affect the validity, enforceability and implementation of other permissible provisions of the collective bargaining agreement.

(c) The collective bargaining agreement negotiated between representatives of the educational employees and the educational employer shall contain a grievance resolution procedure which shall apply to all employees in the unit and shall provide for binding arbitration of disputes concerning the administration or interpretation of the agreement. The agreement shall also contain appropriate language prohibiting strikes for the duration of the agreement. The costs of such arbitration shall be borne equally by the educational employer and the employee organization.

(d) Once an agreement is reached between representatives of the educational employees and the educational employer and is ratified by both parties, the agreement shall be reduced to writing and signed by the parties.

(Source: P.A. 84-832.)

SECTION 11

Non-member fair share payments. When a collective bargaining agreement is entered into with an exclusive representative, it may include a provision requiring employees covered by the agreement who are not members of the organization to pay to the organization a fair share fee for services rendered. The exclusive representative shall certify to the employer an amount not to exceed the dues uniformly required of members which shall constitute each non member employee's fair share fee. The fair share fee payment shall be deducted by the employer from the earnings of the non member employees and paid to the exclusive representative.

The amount certified by the exclusive representative shall not include any fees for contributions related to the election or support of any candidate for political office. Nothing in this Section shall preclude the non member employee from making voluntary political contributions in conjunction with his or her fair share payment.

Agreements containing a fair share agreement must safeguard the right of non-association of employees based upon bonafide religious tenets or teaching of a church or religious body of which such employees are members. Such employees may be required to pay an amount equal to their proportionate share, determined under a proportionate share agreement, to a non-religious charitable organization mutually agreed upon by the employees affected and the exclusive representative to which such employees would otherwise pay such fee. If the affected employees and the exclusive representative are unable to reach an agreement on the matter, the Illinois Educational Labor Relations Board may establish an

approved list of charitable organizations to which such payments may be made.

The Board shall by rule require that in cases where an employee files an objection to the amount of the fair share fee, the employer shall continue to deduct the employee's fair share fee from the employee's pay, but shall transmit the fee, or some portion thereof, to the Board for deposit in an escrow account maintained by the Board; provided, however, that if the exclusive representative maintains an escrow account for the purpose of holding fair share fees to which an employee has objected, the employer shall transmit the entire fair share fee to the exclusive representative, and the exclusive representative shall hold in escrow that portion of the fee that the employer would otherwise have been required to transmit to the Board for escrow, provided that the escrow account maintained by the exclusive representative complies with rules to be promulgated by the Board within 30 days of the effective date of this amendatory Act of 1989 or that the collective bargaining agreement requiring the payment of the fair share fee contains an indemnification provision for the purpose of indemnifying the employer with respect to the employer's transmission of fair share fees to the exclusive representative.

(Source: P.A. 86-412.)

SECTION 12

Impasse procedures. (a) If the parties engaged in collective bargaining have not reached an agreement by 90 days before the scheduled start of the forthcoming school year, the parties shall notify the Illinois Educational Labor Relations Board concerning the status of negotiations.

Upon demand of either party, collective bargaining between the employer and an exclusive bargaining representative must begin within 60 days of the date of certification of the representative by the Board, or in the case of an existing exclusive bargaining representative, within 60 days of the receipt by a party of a demand

to bargain issued by the other party. Once commenced, collective bargaining must continue for at least a 60 day period, unless a contract is entered into.

Except as otherwise provided in subsection (b) of this Section, if after a reasonable period of negotiation and within 45 days of the scheduled start of the forth-coming school year, the parties engaged in collective bargaining have reached an impasse, either party may petition the Board to initiate mediation. Alternatively, the Board on its own motion may initiate mediation during this period. However, mediation shall be initiated by the Board at any time when jointly requested by the parties and the services of the mediators shall continuously be made available to the employer and to the exclusive bargaining representative for purposes of arbitration of grievances and mediation or arbitration of contract disputes. If requested by the parties, the mediator may perform fact-finding and in so doing conduct hearings and make written findings and recommendations for resolution of the dispute. Such mediation shall be provided by the Board and shall be held before qualified impartial individuals. Nothing prohibits the use of other individuals or organizations such as the Federal Mediation and Conciliation Service or the American Arbitration Association selected by both the exclusive bargaining representative and the employer.

If the parties engaged in collective bargaining fail to reach an agreement within 15 days of the scheduled start of the forthcoming school year and have not requested mediation, the Illinois Educational Labor Relations Board shall invoke mediation.

Whenever mediation is initiated or invoked under this subsection (a), the parties may stipulate to defer selection of a mediator in accordance with rules adopted by the Board.

(b) If, after a period of bargaining of at least 60 days, a dispute or impasse exists between an employer whose territorial boundaries are coterminous with those of a city having a population in excess of 500,000 and the exclusive bargaining representative over a subject or matter set forth in Section 4.5 of this Act, the parties shall submit

the dispute or impasse to the dispute resolution procedure agreed to between the parties. The procedure shall provide for mediation of disputes by a rotating mediation panel and may, at the request of either party, include the issuance of advisory findings of fact and recommendations.

(c) The costs of fact finding and mediation shall be shared equally between the employer and the exclusive bargaining agent, provided that, for purposes of mediation under this Act, if either party requests the use of mediation services from the Federal Mediation and Conciliation Service, the other party shall either join in such request or bear the additional cost of mediation services from another source.

(d) Nothing in this Act prevents an employer and an exclusive bargaining representative from mutually submitting to final and binding impartial arbitration unresolved issues concerning the terms of a new collective bargaining agreement.

(Source: P.A. 93-3, eff. 4-16-03.)

SECTION 13

Strikes. (a) Notwithstanding the existence of any other provision in this Act or other law, educational employees employed in school districts organized under Article 34 of the School Code shall not engage in a strike at any time during the 18 month period that commences on the effective date of this amendatory Act of 1995. An educational employee employed in a school district organized under Article 34 of the School Code who participates in a strike in violation of this Section is subject to discipline by the employer. In addition, no educational employer organized under Article 34 of the School Code may pay or cause to be paid to an educational employee who participates in a strike in violation of this subsection any wages or other compensation for any period during which an educational employee participates in the strike, except for wages or compensation earned before participation in the strike. Notwithstanding the existence of any other provision in this Act or

other law, during the 18-month period that strikes are prohibited under this subsection nothing in this subsection shall be construed to require an educational employer to submit to a binding dispute resolution process.

(b) Notwithstanding the existence of any other provision in this Act or any other law, educational employees other than those employed in a school district organized under Article 34 of the School Code and, after the expiration of the 18 month period that commences on the effective date of this amendatory Act of 1995, educational employees in a school district organized under Article 34 of the School Code shall not engage in a strike except under the following conditions:

(1) they are represented by an exclusive bargaining representative;

(2) mediation has been used without success;

(3) at least 10 days have elapsed after a notice of intent to strike has been given by the exclusive bargaining representative to the educational employer, the regional superintendent and the Illinois Educational Labor Relations Board;

(4) the collective bargaining agreement between the educational employer and educational employees, if any, has expired; and

(5) the employer and the exclusive bargaining representative have not mutually submitted the unresolved issues to arbitration.

If, however, in the opinion of an employer the strike is or has become a clear and present danger to the health or safety of the public, the employer may initiate in the circuit court of the county in which such danger exists an action for relief which may include, but is not limited to, injunction. The court may grant appropriate relief upon the finding that such clear and present danger exists. An unfair

practice or other evidence of lack of clean hands by the educational employer is a defense to such action. Except as provided for in this paragraph, the jurisdiction of the court under this Section is limited by the Labor Dispute Act.

(Source: P.A. 89-15, eff. 5-30-95; 90-548, eff. 1-1-98.)

SECTION 14

Unfair labor practices. (a) Educational employers, their agents or representatives are prohibited from:

(1) Interfering, restraining or coercing employees in the exercise of the rights guaranteed under this Act.

(2) Dominating or interfering with the formation, existence or administration of any employee organization.

(3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any employee organization.

(4) Discharging or otherwise discriminating against an employee because he or she has signed or filed an affidavit, authorization card, petition or complaint or given any information or testimony under this Act.

(5) Refusing to bargain collectively in good faith with an employee representative which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative; provided, however, that if an alleged unfair labor practice involves interpretation or application of the terms of a collective bargaining agreement and said agreement contains a grievance and arbitration procedure, the Board may defer the resolution of such dispute to the grievance and arbitration procedure contained in said agreement.

(6) Refusing to reduce a collective bargaining agreement to writing and signing such agreement.

(7) Violating any of the rules and regulations promulgated by the Board regulating the conduct of representation elections.

(8) Refusing to comply with the provisions of a binding arbitration award.

(9) Expending or causing the expenditure of public funds to any external agent, individual, firm, agency, partnership or association in any attempt to influence the outcome of representational elections held pursuant to paragraph (c) of Section 7 of this Act; provided, that nothing in this subsection shall be construed to limit an employer's right to be represented on any matter pertaining to unit determinations, unfair labor practice charges or pre-election conferences in any formal or informal proceeding before the Board, or to seek or obtain advice from legal counsel. Nothing in this paragraph shall be construed to prohibit an employer from expending or causing the expenditure of public funds on, or seeking or obtaining services or advice from, any organization, group or association established by, and including educational or public employers, whether or not covered by this Act, the Illinois Public Labor Relations Act or the public employment labor relations law of any other state or the federal government, provided that such services or advice are generally available to the membership of the organization, group, or association, and are not offered solely in an attempt to influence the outcome of a particular representational election.

(b) Employee organizations, their agents or representatives or educational employees are prohibited from:

(1) Restraining or coercing employees in the exercise of the rights guaranteed under this Act, provided that a labor organization or its agents shall commit an unfair labor practice under this paragraph in duty of fair representation cases only by intentional misconduct in representing employees under this Act.

(2) Restraining or coercing an educational employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances.

(3) Refusing to bargain collectively in good faith with an educational employer, if they have been designated in accordance with the provisions of this Act as the exclusive representative of employees in an appropriate unit.

(4) Violating any of the rules and regulations promulgated by the Board regulating the conduct of representation elections.

(5) Refusing to reduce a collective bargaining agreement to writing and signing such agreement.

(6) Refusing to comply with the provisions of a binding arbitration award.

(c) The expressing of any views, argument, opinion or the dissemination thereof, whether in written, printed, graphic or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

(d) The actions of a Financial Oversight Panel created pursuant to Section 1A-8 of the School Code due to a district violating a financial plan shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act. Such actions include, but are not limited to, reviewing, approving, or rejecting a school district budget or a collective bargaining agreement.

(Source: P.A. 89-572, eff. 7-30-96.)

SECTION 15

Unfair labor practice procedure. A charge of unfair labor practice may be filed with the Board by an employer, an individual or a labor organization. If the Board after investigation finds that the charge states an issue of law or fact, it shall issue and cause to be served upon the party complained of a complaint which fully states the charges and thereupon hold a hearing on the charges, giving at least 5 days' notice to the parties. At hearing, the charging party may also present evidence in support of the charges and the party charged may file an answer to the charges, appear in person or by attorney, and present evidence in defense against the charges.

The Board has the power to issue subpoenas and administer oaths. If any party wilfully fails or neglects to appear or testify or to produce books, papers and records pursuant to subpoena issued by the Board, the Board shall apply to the circuit court for an order to compel the attendance of the party at the hearing to testify or produce requested documents.

If the Board finds that the party charged has committed an unfair labor practice, it shall make findings of fact and is empowered to issue an order requiring the party charged to stop the unfair practice, and may take additional affirmative action, including requiring the party to make reports from time to time showing the extent to which he or she has complied with the order. No order shall be issued upon an unfair practice occurring more than 6 months before the filing of the charge alleging the unfair labor practice. If the Board awards back pay, it shall also award interest at the rate of 7% per annum. If the Board finds that the party charged has not committed any unfair labor practice, findings of fact shall be made and an order issued dismissing the charges.

The Board may petition the circuit court of the county in which the unfair labor practice in question occurred or where the party charged with the unfair labor practice resides or transacts business to enforce an order and for other relief which may include, but is not limited to, injunctions. The Board's order may in its discretion also include an appropriate sanction, based on the Board's rules and regulations, and the sanction may include an order to pay the other party or parties' reasonable expenses including costs and reasonable attorney's fee, if the other party has made allegations or denials without reasonable cause and found to be untrue or has engaged in frivolous litigation for the purpose of delay or needless increase in the cost of litigation; the State of Illinois or any agency thereof shall be subject to the provisions of this sentence in the same manner as any other party.

(Source: P.A. 86-412; 87-736.)

SECTION 16

Judicial review.

- (a) A charging party or any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may apply for and obtain judicial review of an order of the Board entered under this Act in accordance with the provisions of the Administrative Review Law, as now or hereafter amended, except that such judicial review shall be taken directly to the Appellate Court of a judicial district in which the Board maintains an office. Any direct appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision.
- (b) Whenever it appears that any person has violated a final order of the Board issued under this Act, the Board may commence an action in the name of the people of the State of Illinois by petition, alleging the violation, attaching a copy of the order of the Board, and praying for the issuance of an order directing the person, his officers, agents, servants,

successors, and assigns to comply with the order of the Board. Upon the commencement of the action, the Court may grant or refuse, in whole or in part, the relief sought, provided that the Court may stay an order of the Board in accordance with Section 3-111 of the Code of Civil Procedure pending disposition of the proceedings. The Court may punish a violation of its order as in civil contempt.

- (c) The proceedings provided in subsection (b) of this Section shall be commenced in the Appellate Court of a judicial district in which the Board maintains an office.
- (d) The Board may, upon issuance of an unfair labor practice complaint, petition the circuit court where the alleged unfair practice which is the subject of the Board's complaint was allegedly committed, or where a person required to cease and desist from such alleged unfair labor practice resides or transacts business, for appropriate temporary relief or a restraining order. Upon the filing of any such petition the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper.
- (e) In any judicial review proceeding brought hereunder, the employee organization may sue or be sued as an entity and in behalf of the employees whom it represents. The service of legal process, summons, or subpoena upon an officer or agent of the employee organization in his or her capacity as such, shall constitute service upon said employee organization.

(Source: P.A. 88-1.)

SECTION 17

Effect on other laws. In case of any conflict between the provisions of this Act and any other law, executive order or administrative regulation, the provisions of this Act shall prevail and control. Nothing in this Act shall be construed to replace or diminish the rights of employees established by Section 36d of "An Act to create the State Universities Civil Service System", approved May 11, 1905, as amended or modified.

(Source: P.A. 83-1014.)

SECTION 17.1

Precedents established by other labor boards. Unless contradicted by administrative precedent previously established by the Board, all final decisions in representation and unfair labor practice cases decided by the State or Local Panel of the Illinois Labor Relations Board or their predecessors, the Illinois State Labor Relations Board and the Illinois Local Labor Relations Board previously created under the Illinois Public Labor Relations Act, which have not been reversed by subsequent court rulings shall be considered, but need not be followed, by the Board.

(Source: P.A. 91-798, eff. 7-9-00.)

SECTION 18

Meetings. The provisions of the Open Meetings Act shall not apply to collective bargaining negotiations and grievance arbitrations conducted pursuant to this Act.

(Source: P.A. 83-1014.)

SECTION 19

Sovereign Immunity. For purposes of this Act, the State of Illinois waives sovereign immunity.

(Source: P.A. 83-1014.)

SECTION 20

Short title. This Act shall be known and may be cited as the "Illinois Educational Labor Relations Act".

(Source: P.A. 83-1014.)

SECTION 21

Inapplicability of State Mandates Act. The General Assembly finds that this Act imposes additional duties on local educational employers which can be carried out by existing staff and procedures at no appreciable net cost increase. The increased additional annual net costs resulting from the enactment of this Act would be less than \$50,000, in the aggregate, for all local educational employers affected by this Act, and reimbursements of local educational employers is not required of the State under The State Mandates Act, by reason of the exclusions specified in clauses (2) and (5) of subsection (a) of Section 8 of that Act.

(Source: P.A. 83-1014.)